

REMARKS

In response to the Restriction Requirement under 35 U.S.C. §121, Applicant hereby provisionally elects the invention of Group I, claims 1-22. This election is made with traverse.

It is respectfully submitted that the search and examination of the entire application can be made without a serious burden and that the criteria for a proper restriction requirement set forth in MPEP §803 have not been satisfied. MPEP §803 states “If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” (Emphasis added.)

It is respectfully submitted that the search and examination required for Group I necessarily includes the search and examination required for Group II, and vice versa. The Examiner indicated, on page 2, paragraph 2 of the Office Action, that “invention I has separate utility such as partially transmission of radiation with a predetermined wavelength whereas invention II has separate utility such as filtering out the undesired radiation.”

Claim 18 recites a device manufacturing method comprising, *inter alia*, passing the radiation through a layer of material disposed on at least one optical element, said layer of material being selected to be at least partially transmissive to radiation with a predetermined wavelength  $\lambda$ , wherein the surface of material comprises particles having a diameter in a range of 1-500 nm, and the layer of material has a layer thickness in the range of 10-2000 nm. Claim 23 recites a device manufacturing method comprising, *inter alia*, passing the beam through a layer of material disposed on at least one optical element for selectively filtering out the at least one undesired radiation. Therefore, the search and examination of the elected group requires the search and examination of the non-elected group since, in both cases, a radiation is passed through a layer of material, which layer of material is configured to selectively transmit radiations.

Accordingly, reconsideration and withdrawal of the Restriction Requirement are respectfully requested.

BAKKER -- 10/760,558  
Client/Matter: 081468-0307685

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Respectfully submitted,

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